

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
ROBERT FENNELL

10-237J

(In the space above enter the full name(s) of the plaintiff(s).)

- against -

Randall E. Britton

David J. Close

Doretta Chencharick

SCI Houtzdale

David Perry

Donald Sharp

Susan Mcquillen

CFSI Weyer

CFSI Morrison

COMPLAINT

under the
Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)

Jury Trial: ☒ Yes ☐ No
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name ROBERT FENNELL
ID # GW-0392
Current Institution SCI Houtzdale
Address P.O. Box 1000 Houtzdale Pa. 16698

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name Randall E. Britton Shield # _____
Where Currently Employed Superintendent at SCI Houtzdale
Address P.O. Box 1000 Houtzdale Pa. 16698

Defendant No. 2 Name David J. Close Shield # _____
Where Currently Employed Duputy Superintendent
Address P.O. Box 1000 Houtzdale Pa. 16698

Defendant No. 3 Name Doretta Chencharick Shield # _____
Where Currently Employed Grievance Coordinator
Address P.O. Box 1000 Houtzdale Pa. 16698

Defendant No. 4 Name David Perry Shield # _____
Where Currently Employed Business Manager
Address P.O. Box 1000 Houtzdale Pa. 16698

Defendant No. 5 Name Donald Sharp Shield # _____
Where Currently Employed Food Service Manager
Address P.O. Box 1000 Houtzdale Pa. 16698

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur? SCI Houtzdale

B. Where in the institution did the events giving rise to your claim(s) occur? SCI Houtzdale
Kitchen

C. What date and approximate time did the events giving rise to your claim(s) occur? At
approximately 11:00 pm on July 15, 2009

Defendant No. 6 Name Susan McQuillen Shield#
Where Currently Employed Superintendent at SCI Houtzdale
Address P.O. Box 1000 Houtzdale Pa. 16698

Defendant No. 7 Name CFSI Weyer Shield#
Where Currently Employed Food Service C/O at SCI Houtzdale
Address P.O. Box 1000 Houtzdale Pa. 16698

Defendant No. 8 Name CFSI Morrison Shield#
Where Currently Employed Food Service C/O at SCI Houtzdale
Address P.O. Box 1000 Houtzdale Pa. 16698

What
happened
to you?

D. Facts: On July 15, 2009, I [Fennell] began my shift as usual. I worked as a cook preparing food for the next day. At 11:00 pm CFSI Weyer ordered me to stop what I was doing and start to cut up some pork after receiving my work assignment I expressed my concerns over possible contact with pork to my head or any part of my body. I then informed her of my religious belief. She then stated to me by way of a threat that if I do not do it I will be put in the

Who
did
what?

RHU and fired so I went over to the area and started to cut up some of the pork after 30 minutes of cutting I started to get sick SO I stopped and ran to the bathroom and vomitted in the toilet I

Was
anyone
else
involved?

told Mr. Sharp and he fired me so I wrote out a request, Grievance to D. Chencharick, D. Close, R. Britton, D. Perry, and Susan Mcquillen On July 15 2009 Grievance Number# 280952. They responded on July 19 2009 and stated (and I Quoit) If you cannot perform the duties as a cook, you will need to be removed from the cook position. I

Who else
saw what
happened?

Meaning all the defendant's spoke to CFSI Weyer and she indicated to that she did not make any provision that would excuse me from handling pork. After that and one hour before being fired CFSI Morrison retaliated on me by ordering me to empty out 30 pans of frozen rice with a plastic eating spoon. I requested a metal spoon but I was deined. So CFSI Jenkins helped me

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. I be came very sick and my head was hurting and I was vomiting for (5) five days I pass out in the bathroom for about (2) two minutes and from that I hurt my head, pulled a muscle received tylenol.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that " [n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes X No

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s). SCI Houtzdale

- B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes X No Do Not Know

- C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes X No Do Not Know

If YES, which claim(s)? FIRST AMENDMENT, THE RIGHT TO FREE EXERCISE OF

MY RELIGION

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes X No

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes X No

- E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

It was file at SCI Houtzdale on 7-19-09 # 280952

1. Which claim(s) in this complaint did you grieve? First Amendment, The right to free exercise of my religion.

2. What was the result, if any? I was Denied on 7-31-09

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. I file an appeal with Superintendent

Britton, Deputy Close, Kessler, Major Hollibaugh, and Major Horton after that I filed an appeal to SCI Camphill

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: _____

2. If you did not file a grievance but informed any officials of your claim, state who you informed, when and how, and their response, if any: _____

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. On the day in question I spoke with CFSI Weyer about why I can not touch pork then I Spoke to Donald Sharp about it and Susan Mcquillen. I Filed Request slips, spoke to the other defendants, I Requested other employment and they said NO! I was place on 90 day Suspension For not handling pork and I was Fired on the same day.
-

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

- V. **Relief:** 50,000 for compensatory damages, lost wages, reinstatement of my pay level and cessation of similar religious harassment.

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount): 50,000 for compensatory damages, lost wages, reinstatement of my pay level and cessation of similar religious harassment. The reason that I am asking for this amount is because this is not the first time that the DOC has done this plus I have been harass ever sents and I keep having headache's Also Accumulative damages, discretionary damages in The sum of \$10,000, General damages, Punitive damages

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

C. Have you filed other lawsuits in state or federal court?

Yes ☒ No ☒

D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff Robert Foxwell

Defendants Correctional Officer Tamika Hinton, et al.

2. Court (if federal court, name the district; if state court, name the county) Philadelphia

3. Docket or Index number NO. 08-3221

4. Name of Judge assigned to your case L. Felipe Restrepo

5. Approximate date of filing lawsuit ~~10-2-08~~ 7-9-08

6. Is the case still pending? Yes ☒ No ☐

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this _____ day of _____, 20____.

Signature of Plaintiff

Robert Foxwell

Inmate Number

Gw0392

Institution Address

SCI Houtzdale

PO Box 1000 Houtzdale

PA 16698

Parties to previous lawsuit:

1.

Plaintiff Robert Fennell

Defendants Kenneth Cameron, Matthew Kessler, A. Flick
R. Kustenhauer, Francis Pirozzola, C/O Hall, Irwin

2. Court. Cambria County

3. Docket number NO. 09-75

4. Name Judge on case Kim R. Gibson / Amy Reynolds Hay

5. Approximate date of Filing lawsuit 1-6-9

6. Is the case still Pending? YES X NO

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this _____ day of _____, 20 10, I am delivering this complaint to prison authorities to be mailed to the Clerk's Office of the United States District Court for the Eastern District of Pennsylvania.

Signature of Plaintiff: _____

